

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

PUSH DATA LLC,

Plaintiff,

v.

WAYFAIR INC. AND WAYFAIR LLC,

Defendants.

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Case No.: 4:23-cv-1126

**[Proposed] Amended Patent Scheduling Order**

Event	Current Deadline	Revised Deadline
P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions (and P.R. 3-2 document production) to be served.	June 21, 2024	
Deadline to add parties.	<del>July 16, 2024</del>	Aug. 6, 2024
P.R. 3-3 Invalidity Contentions (and P.R. 3-4 document production) to be served. To extent not already required to be disclosed, exchange Mandatory Disclosures on all issues, including damages.	<del>July 16, 2024</del>	Aug. 6, 2024
Parties to exchange proposed terms for construction and identify any claim element governed by 35 U.S.C. § 112, ¶ 6 (P.R. 4-1).	<del>July 26, 2024</del>	Sept. 3, 2024
Privilege logs to be exchanged by parties (or a letter to the Court stating that there are no disputes as to claims of privileged documents).	<del>July 30, 2024</del>	Sept. 6, 2024
Parties to exchange preliminary proposed claim construction and extrinsic evidence supporting same. (P.R. 4-2).	<del>Aug. 9, 2024</del>	Sept. 17, 2024
Joint Claim Construction and Prehearing Statement to be filed. (P.R. 4-3). Provide an estimate of how many pages are needed to brief the disputed claims.	<del>Sept. 16, 2024</del>	Oct. 14, 2024

Completion date for discovery on claim construction. (P.R. 4-4).	<del>Oct. 14, 2024</del>	Oct. 22, 2024
Opening claim construction brief (P.R.4-5(a)).	Oct, 29, 2024	
Submit technology synopsis (both hard copy and disk).	Nov. 4, 2024	
Responsive claim construction brief (P.R. 4-5(b)).	Nov. 12, 2024	
Reply claim construction brief (P.R. 4-5(c)).	Nov, 19, 2024	
Parties to file joint claim construction and chart (P.R. 4-5(d)). Parties shall work together to agree on as many claim terms as possible.	Nov. 22, 2024	
<b>Claim construction hearing at 9:00 am</b> at the Paul Brown United States Courthouse, 101 E. Pecan Street, Sherman, Texas.	<b>Dec. 2, 2024</b>	
Deadline for Initial Mandatory Disclosure of all persons, documents, data compilations, and tangible things, which are relevant to a claim or defense of any party and which has not previously been disclosed. This deadline is not an extension of earlier deadlines set out in this court's order or that Patent Rules, nor an excuse to delay disclosure of information. It is a catchall deadline for provision of all remaining information that may be relevant to a claim or defense of any party at trial.	Jan. 17, 2025	
Parties shall notify the Court of the name, address, and telephone number of the agreed-upon mediator, or request that the Court select a mediator, if they are unable to agree on one.	Jan. 3, 2025	
Parties with burden of proof to designate Expert Witnesses other than claims construction experts and provide their expert witness reports, to include for ALL experts all information set out in Rule 26(2)(B).	Feb. 14, 2025	
Comply with P.R. 3-7 on designation of willfulness opinions.	Feb. 14, 2025	
Parties designate expert witnesses on issues for which the parties do not bear the burden of proof, and provide their expert witness report, to include for ALL experts all information set out in Rule 26(2)(B).	Feb. 28, 2025	

Objections to any expert, including <i>Daubert</i> motions, shall be filed within 3 weeks of the Expert Report disclosure. Such objections and motions are limited to ten pages.		
Discovery deadline. All discovery must be served in time to be completed by this date.	Mar. 14, 2025	
Deadline to file dispositive motions and any other motions that may require a hearing. Regardless of how many dispositive motions a party files, each party is limited to a total of sixty pages for such motions. Each individual motion shall comply with Local Rules CV-7.  Responses to motions shall be due in accordance with Local Rule CV-7(e).	Feb. 28, 2025	
Mediation deadline.	Feb. 28, 2025	
Notice of intent to offer certified records.	June 16, 2025	
Counsel and unrepresented parties are each responsible for contacting opposing counsel and unrepresented parties to determine how they will prepare the Joint Final Pretrial Order (See <a href="http://www.txed.uscourts.gov">www.txed.uscourts.gov</a> ) and Proposed Jury Instructions and Verdict Form (or Proposed Findings of Fact and Conclusions of Law in nonjury cases)).	June 16, 2025	
Deposition Designations due. Each party who proposes to offer a deposition shall serve on all other parties a disclosure identifying the line and page numbers to be offered. All other parties will have seven calendar days to serve a response with any objections and requesting cross examination line and page numbers to be included. Counsel must consult on any objections and only those that cannot be resolved shall be presented to the court.  The party who served the initial Video Deposition Designation is responsible for preparation of the final edited video in accordance with all parties' designations and the court's rulings on objections.	June 23, 2025	
Motions in limine due.  File Joint Final Pretrial Order (See <a href="http://www.txed.uscourts.gov">www.txed.uscourts.gov</a> ). Exchange Exhibits and deliver copies to the court. At this date, all that is required to be submitted to the court is a	June 20, 2025	

hyperlinked exhibit list on disk (2 copies) and no hard copies.		
If Parties will be requesting daily copy of the transcript during trial, they must notify the Court's court reporter, Chris Bickham, <a href="mailto:Chris_Bickham@txed.uscourts.gov">Chris_Bickham@txed.uscourts.gov</a> by this date.		
Responses to motions in limine due.	July 7, 2025	
File objections to witnesses, depositions extracts, and exhibits, listed in pre-trial order. This does not extend the deadline to object to expert witnesses. If numerous objections are filed, the court may set a hearing prior to docket call.		
File Proposed Jury Instructions and Form of Verdict (or Proposed Findings of Fact and Conclusions of Law).		
File proposed Voir Dire questions.		
<b>Final Pretrial Conference at 9:00 a.m.</b> at the Paul Brown United States Courthouse located at 101 East Pecan Street in Sherman, Texas.	July 21, 2025	
<b>Jury selection and trial</b> at 10:00 a.m. at the Paul Brown United States Courthouse located at 101 East Pecan Street in Sherman, Texas.	TBD	